

STATE OF COLORADO

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Colorado Department
of Public Health
and Environment

Public Notice Notifications COR090000 Renewal General Permit Discharges Associated with Municipal Separate Sewer Systems (MS4s)

The Water Quality Control Division (the Division) has noticed its intent to reissue the above referenced Colorado Discharge Permit System permit, pursuant to the Clean Water Act, and the Colorado Water Quality Control Act. Written comments on the tentative determination are to be submitted to WQCD by January 10, 2014. The Division has identified a few clarifications regarding some language in the COR090000 draft permit that may be of assistance to the public when evaluating and preparing comment on the draft permit language. The following list of items is in no way intended to be all encompassing of those portions of the permit for which the Division is expecting comment or has had discussion to-date with the public. The Division encourages any entity or person intending to provide comment to contact us if they have questions or confusion about the draft permit. Please contact the permit drafter, Michelle DeLaria, at 303-692-3615 or michelle.delaria@state.co.us.

1. Part I.A.1.a, second paragraph, Areas *contiguous* to water ways.
The Division's use of the word "*contiguous*" in this section was not intended to be in accordance with the definition provided in Part I.J, which references a ¼ mile. The Division's intention was only to address areas directly *adjacent* to a waterway, such as permittee property or easements along the length of the waterway. Also, note that this paragraph as drafted in no way expands the Permit Area outside of the area identified on Part I.A.3 (Permit Area), i.e., areas adjacent to waterways that are outside of the area identified in Part I.A.3 would not be added to the Permit Area based on this paragraph.
2. Part I.A.3, Permit Area and Cherry Creek Reservoir drainage basin and counties.
It is the Division's intent to include permit coverage under this general permit for areas draining to the Cherry Creek Reservoir that are served by, or contribute to, municipal separate storm sewers owned or operated by a permitted entity. Although Part I.A.3 does state that permit coverage may include "additional areas designated by the Division," for clarity, Part I.A.3.b should have specifically identified that for counties, areas draining to the Cherry Creek Reservoir were included in the Permit Area.
3. Part I.E.3.a.v(C)(1), Control Measures for disturbed and stored soil.
The language of this section in no way limits a permittee to only requiring inlet protection or natural vegetative buffers as controls for disturbed and stored soil. On the contrary, the language is applying specific limitation on these two types of control measures if they are selected. Examples of acceptable Control Measures include, but are not limited to, structures (e.g., retention ponds) or grade controls that prevent discharge, infiltration, and barriers placed along the contour that allow for detention and settling (e.g., silt fence and wattles).
4. Part I.E.3.vii, Site Inspections for residential lots and similar
The Division is very interested in comments on construction activities site inspection requirements in the draft permit, including the frequency, scope, and flexibility included in the draft Permit. However, the Division has specifically identified the following issues for which comment is being sought. The Division included language in Part I.E.3.a.vii(C)(5) of the draft permit that was intended to streamline the minimum required oversight process for

residential lot construction. This inclusion was based on information provided to the Division by permittees and the Division's own experience with compliance oversight of these construction activities. The intent was to allow for a more results-based oversight process that aligns with the reduced complexity of control measure design and implementation that is common for these sites. However, the Division has become aware that the requirement in Part I.E.3.a.vii(C) "to confirm conformity with the site plan," may be contrary to the Division's intent for this subset of construction activities, since it would require a permittee make contact with the operator, obtain documents, and review those documents. The Division is specifically seeking comments on if this requirement should be modified to be more in line with the intent of streamlining inspection process residential home building sites, and if additional types of activities should also be included. Some specific areas the Division would like to point out for consideration are:

- a. Should site plan requirements be removed or modified for a subset of activities, such as individual lot home construction? If not removed fully, should a reduced frequency of plan review be required, or responsive plan review to address inadequate and/or non implementation of Control Measures?
 - b. Should the reduced inspection scope be expanded to other sites? For example, would it also be appropriate for non-residential sites that are part of a larger common plan of development but are under one acre and for which all Control Measures are implemented at the lot level (i.e., the controls are implemented for all pollutant sources on the lot prior to discharges occurring from the lot.
 - c. Information on current permittee practices would be especially useful to the Division in identifying requirements to meet the Maximum Extent Practicable target.
5. Part I.E.3.a.vii(A)(3)(b), Site Inspections for designated Stormwater Management System Administrator's Program participants
The Division is aware that the draft language in this section may be subjective for determining if a participant has a "reduced potential for occurrences of inadequate Control measures or failure to implement Control Measures, and reduced risk of negative impacts on receiving waters." The Division is specifically seeking recommendations on removing the subjectivity of this allowance. The Division's intent is to provide an opportunity for permittees to exercise their ability to allow for reduced oversight of sites that participate in the Stormwater Management System Administrator's Program.
6. Part I.E.4.a.i(H)(5), Drinking water uses.
The use of the term "uses" is confusing in this section. The Divisions intent with this language is to address the actual presence of a drinking water *intake* on the waterway upstream of the regional WQCV facility. The intent was not to reference a designated use for a stream segment.
7. Part II.A.2 Change in Discharge or Wastewater Treatment.
It is not the Division's intent to require notification for every additional MS4 outfall. The Division intends to evaluate this language in comparison to the underlying regulatory requirement to address this unintended result.
8. Fact Sheet
The permit Fact Sheet is included in the public notice, and the Division is seeking comment on the content of that document. Note that different statutes and regulations refer to this document that accompanies public notice and issuance of a permit in different ways, which may result in some confusion. the Fact Sheet includes content to address the following statutory and regulatory requirements:
- a. A permit "rationale" as required by Colorado Discharge Permit System Regulations, 5-CCR-61.5(2)
 - b. A "preliminary analysis" as required by C.R.S. 25-8-502(3)(b)
 - c. A "statement of basis and purpose" as required by the federal Clean Water Act, 40 CFR 124.7, to "describe the derivation of permit conditions and the reasons."
 - d. A "fact sheet" as required by the federal Clean Water Act 40 CFR 124.56 to "describe the reason" for permit terms and conditions.
 - e. A "statement of basis and purpose" as required by SB 13-073 and incorporated into C.R.S 25-8-503.5, "explaining the need for the proposed requirements" and to "present evidence supporting the need for the proposed requirements, including information regarding pollutant potential and available controls, incidents of environmental damage, and permit violations"

Please refer to the Division's web page at <http://www.coloradowaterpermits.com> for additional information. The draft permit and fact sheet can be found under the "Permit Actions" link. Additional information on the Division renewal process, including stakeholder meeting that occurred prior to public notice, can be found under the "Work Plan Status for General Permits" tab.